

VAT Mail Services - Important Changes



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Further Information

Most people are aware that they do not pay VAT when they buy postage stamps or mail services from the Royal Mail and this is because mail services supplied by the Royal Mail are specifically exempt under UK VAT law.

What may be less well known is that there are a number of commercial providers competing with the Royal Mail in some parts of the mail services sector and their services do attract VAT.

The reason for this discrepancy is that UK VAT law specifically limits the exemption for postal services to those supplied by the Royal Mail.

The TNT VAT Case

Commercial providers are clearly at a competitive disadvantage because they have to charge VAT when the Royal Mail does not. It is not surprising, therefore, that one of the commercial providers (TNT) decided to challenge the status quo by taking a case to court and argue that its services should also qualify for exemption.

As the case was considering an important point of principle it went all the way to the European Court but instead of finding that TNT should qualify for exemption the Court decided that the UK exemption was too widely drawn. As a result some of the services currently exempted by Royal Mail should, in fact, be subject to VAT.

Affected Services.

As a result of this case HM Revenue & Customs has confirmed that it will be changing UK VAT law with effect from 31 January 2011 and has, in the meantime, issued a technical note detailing the changes (see www.hmrc.gov.uk/budget2010/march/vat-post-tech-note-5260.htm).

This Technical Note confirms that mail services supplied by Royal Mail under its remit of 'Universal Service Provider' remain exempt. Mail services that are individually negotiated or are not subject to any price and regulatory control will become subject to VAT.

Reclaim Opportunity

Although the law in the UK will not be amended until 31 January 2011 the TNT judgement does provide a VAT reclaim opportunity. The reason is that the TNT judgement confirms what UK VAT law should always have said. It follows therefore that some mail services supplied by Royal Mail in the past can be deemed to have been subject to VAT.

Businesses that have received this type of service from Royal Mail can therefore treat the price paid to Royal Mail as being VAT inclusive.

This VAT can be claimed back from HM Revenue & Customs, subject to the normal rules and the normal VAT recovery

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position of the business, thereby reducing the price paid for the service.

Claims can be made for a period of up to four years and will need to be based, as far as possible, on actual expenditure figures and be allocated to VAT periods.

HM Revenue & Customs has issued a Revenue & Customs Brief (19/2010) confirming that claims for recovery can be made.

Further Information

If you would like further information about the contents of this article or would like some assistance with lodging a claim for VAT recovery please speak to your usual Shipleys contact or the VAT team on:

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